

Minutes
DAGSBORO TOWN COUNCIL
Bethel Center
Monday, May 15, 2023

I. CALL MEETING TO ORDER

Meeting was called to order by Mayor Baull at 6:00 p.m.

In attendance were: Mayor Brian Baull, Vice-Mayor Theresa Ulrich, Councilman William Chandler, Councilman Norwood Truitt, Councilman William Labor, Town Administrator Cynthia Brought, Chief Steven Flood, Sgt. Nicholas Disciullo and Engineering Consultant Kyle Gulbranson. See sign in sheet for others in attendance.

II. PUBLIC COMMENT

No public comment was made.

III. PUBLIC HEARING

COURT OF APPEALS – PROPERTY TAXES FISCAL YEAR 2022-2023

(Eric Piner – PTA Deval/Mayor and Council)

- a. Appeals – If no appeals, close Public Hearing**
- b. Approval of Tax Assessments for 2023-2024 Tax Year**

Eric Piner, of PTA Deval stated that no one filed an appeal.

Mayor Baull asked for any questions on the Property Taxes for FY 23/24. Vice-Mayor Ulrich, of 201 Chapel of Ease, stated that she subdivided her property last year and gave her daughter half of her property to build on and asked if her property taxes would be reduced because of that. Eric Piner stated that her property is still considered a building site since her house is there, but he would have to look at it to be sure. Town Administrator Brought asked if she compared last year's taxes to the list that was presented. Vice-Mayor Ulrich stated, "No, I haven't looked yet."

Mayor Baull closed the Public Hearing.

Vice-Mayor Ulrich made a motion to approve the tax assessments for 2023-2024 tax year. Councilman Labor seconded the motion. All were in favor.

IV. APPROVAL of MINUTES

April 17, 2023 Town Council Meeting Minutes

Councilman Labor made a motion to approve the Town Council Minutes. Councilman Truitt seconded the motion. All were in favor.

V. CONSENT AGENDA

a. Police Department Report

Chief Flood stated the Department talked about getting a police trailer like the State Police have and they reached out to the Office of Highway Safety to see if any funding was available to cover the cost. OHS can offer them \$9K so they decided to purchase a newer speed trailer. The speed trailer they ordered is smaller and has a different battery and data system installed in it from the one they have now. It should take 2-3 months to come in, but it will be nice to have a second one in Town.

Vice-Mayor Ulrich stated, "This is not the trailer you originally wanted." Chief Flood replied, "No, it isn't," and they could have added to the funding for it but the trailer they were first looking at costs about \$20K so they are happy with what they were able to get.

Councilman Chandler asked Chief Flood if he signed up for the Railroad App that they talked about previously. Chief Flood stated that he is waiting for his approval on the app. Sgt. Disciullo stated that he is active on the app and has accessed the app twice, but he must enter the number and letters from the train cars as it is going by and both times every car has been empty. He added that he may be seeing the trains after they had their delivery.

Councilman Chandler asked if anyone could have the Railroad App. Sgt. Disciullo stated that approval is given through a government or state agency and his employment was verified with the Town. Councilman Chandler stated that someone from the Fire Department should be able to access it too and would reach out to them as well.

Mayor Baull commented about the nice email that was received about Cpl. Cullen.

- b. Treasurer's Report**
- c. Administrative Report**
- d. Building Official Report**
- e. Code Enforcement Report**
- f. Meeting Reports**
- g. Water Department Report**
- h. Prince George's Chapel Cemetery Report**
- i. Correspondence**

Councilman Chandler asked if the Town has heard anything from Fernmoor's attorney. Town Administrator Brought replied, "No." She added that Town Solicitor Greg Morris would be contacting Fernmoor's attorney to see what is going on since they have not heard anything else from them.

Vice-Mayor Ulrich asked for confirmation on the streetlights and that they are giving off less light to the Town. Town Administrator Brought stated that the LED lights will save on electricity for the Town which is needed so she will move forward with getting more streetlights added to the roads. The Representative from Delmarva Power, Jim Smith, agreed to have their engineer come out and check the lights and see which roads need additional lighting. Overall, it will save the Town a lot of money by replacing/adding LED lights. Councilman Chandler asked if they would mount a new light on a pole that isn't being used now. Town Administrator Brought replied, "Yes."

Town Administrator Brought stated that Jim Smith also said when the Site Plan for the new Police Building/Meeting Room is ready, he will have their engineers look at it since the wiring, etc. will most likely be underground and may take some time to receive the supplies they will need.

Vice-Mayor Ulrich made a motion to approve the consent agenda. Councilman Chandler seconded the motion. All were in favor.

VI. PLANNING & ZONING REPORT

Recommendation for approval of Temporary Flower Cart at 29453 Vines Creek Road. Flowers are grown by the applicant and will be sold on the property with parking as shown on the sketch found in your packets.

Engineering Consultant Kyle Gulbranson stated that the Site Plan Application/Diagram of where the Temporary Flower Cart will be placed is included in the packets.

Councilman Chandler asked if the flowers would be grown on site. Arlene Amorim replied, "Yes, everything is locally grown. She added that the Gumboro Fire Department recently delivered extra water for them.

Engineering Consultant Kyle Gulbranson stated that the Planning & Zoning Committee reviewed and recommended approval to the Town Council. He added that the approval process for a Temporary Cart in the Town Center District is that P & Z reviews the application and makes a recommendation to Town Council and then Town Council would approve the application.

Vice-Mayor Ulrich asked if there would be off street parking. Mr. Gulbranson stated, "Yes, there are 10 spaces available in the driveway." Mayor Baull asked if there is room for cars to turn around because he knows how traffic is on Vines Creek Road. Mr. Gulbranson stated that there is room to turn around and there is a U-shaped driveway that can be used. Vice-Mayor Ulrich asked if they closed off one of the entrances. Mr. Gulbranson stated that there were originally three entrances on the property, and one has been closed off.

VII. NEW BUSINESS

a. Discussion & Possible Vote on Temporary Flower Cart

Councilman Labor made a motion to approve the Temporary Flower Cart as presented on 29453 Vines Creek Road. Councilman Truitt seconded the motion. All were in favor.

b. Discussion on Implementing a K9 Unit and Silver Taurus Interceptor/Possible Sale and Replacement

Chief Flood stated that the 2015 Silver Taurus has been sitting for the last few months as a backup vehicle but since it has 71,000 miles and in need of a new transmission that they would like to sell it and they have someone interested in purchasing it. Councilman Chandler asked, "All it does now, is serve as a back-up if someone needs it?" Chief Flood replied, "Yes, it is used if one of the other vehicles break down or at the mechanic for any length of time." He stated that the plan would be to sell the silver one and with more grants, they would purchase a new vehicle and then use the White Taurus as back-up since the mileage is getting high on it. Councilman Chandler stated that since it is 8 years old, he doesn't feel it's worth putting a brand-new transmission in it and asked what the buyer is offering to pay for it. Chief Flood stated that he was offered \$6K.

Councilman Labor asked what would happen in the interim, before obtaining new grants and purchasing a new vehicle, if one of the other vehicles breaks down. Chief Flood stated that in the past, when they have been without a spare vehicle, one of the officers would drive their own vehicle to work and then carpool. If one of them doesn't work the next day, then they will leave their vehicle for the next person to use. He added that someone would drive their own vehicle to work.

Mayor Baull stated that since there is someone willing to purchase the vehicle, they should sell it while it is still running, in case something else goes wrong with it. Councilman Chandler stated that he agrees with Mayor Baull.

Councilman Chandler made a motion to give Chief Flood authorization to sell the 2015 Silver Taurus Interceptor. Councilman Labor seconded the motion. All were in favor.

Chief Flood stated that the Department is interested in starting a K-9 program. There are a few grants available that will cover the entire cost of the dog, but the K-9 program needs to be active before they would approve a grant. He explained that for the K-9 Program, this would be a single purpose K-9 which is a drug dog, and they would prefer a Labrador. Chief Flood stated that their hope is that they would be able to bring the dog out for the community to enjoy.

He also stated that with the new legislation that has been passed, legalizing marijuana, most K-9s are being retired or not doing drug work. He added that this is another tool just like the body cam and police vehicle are, that can be used to assist the officer. Chief Flood stated that previously, Cpl. Wechtenhiser stopped a vehicle on the highway and was 90% sure that there was illegal contraband in the vehicle, but

the driver refused to have the vehicle searched. They contacted the Worcester County Sheriff Office and with their assistance, they waited for the car at the state line and 110 lbs. of marijuana was found in the vehicle which was headed to Virginia to sell it. He stated that over the past couple months, they have seized over 110 lbs. of marijuana, over 500 bags of heroin and just under \$110K of illegal money. He knows people have been complaining about them being on the highway so much, but there has been a lot of illegal stuff going up and down the highway and it is their responsibility to take care of it.

Chief Flood stated that they have estimated the start-up cost would be about \$11k for the dog and about \$7k for equipment to have the Tahoe outfitted for the dog. He added that they started looking for Grants to help cover the costs and found a \$15k Federal Grant to cover the purchase of the K-9 and help with equipment to upfit the vehicle. They have been in contact with other grants and will be able to receive other State and Federal Grants to help with the upfit of the vehicle. He explained that with grants, the Town would pay upfront and then they would be reimbursed. Chief Flood added that he hopes to have community donations and fundraisers to cover the yearly cost of the program. He estimated the yearly cost would be about \$500 for a yearly check-up, \$1500 for the cost of food and \$200 for the minor replacement of equipment such as food bowls, toys, and leashes. There is a one-time fee for a concrete pad and kennel that would need to be poured at the K-9 handlers house for the dog which he estimated at \$2000 but Chief Flood feels the concrete would be donated to them.

Councilman Chandler asked, "Who is the lucky person to get the K-9?" Chief Flood stated, "That would be Cpl. Wechtenhiser, who currently has two German Shepherds."

Chief Flood stated that he spoke to Tar Heel Kennels in North Carolina and let them know that their first choice would be a Labrador and their second choice would be a German Shepard. He added that he wants their K-9 to be a good quality dog and if there isn't one available then they would wait.

Vice-Mayor Ulrich asked if Cpl. Wechtenhiser leaves his position at the Town, would the dog go with him? Chief Flood stated, "No," Cpl. Wechtenhiser would be required to sign a 5-year contract with the Town, which he has already agreed to, and if he decides to leave after 5 years, the dog stays with the Police Department and would be turned over to another officer. Vice-Mayor Ulrich stated that another person would have to adjust to the dog, and they would have another concrete pad and kennel put in at the new location. Chief Flood replied, "Yes, and we would receive back our kennel and doghouse, but another concrete pad would have to be poured. Vice-Mayor Ulrich asked if they would be allowed to search vehicles with the new legislation. Chief Flood stated that this dog would not be trained for marijuana.

Mayor Baull asked, "What other agencies have a K-9 units close by?" Sgt. Disciullo stated that currently Ocean View, Laurel and 1-2 State Police have K-9 units. Mayor Baull asked if others would be able to call and request service from them? Chief Flood stated that they could, but they would put some boundaries on the requests.

Vice-Mayor Ulrich asked what type of insurance would be needed. Chief Flood stated that they would require the same insurance as a regular police officer.

Councilman Chandler stated he agrees that this is a valuable tool to use to help with apprehending people who are transporting illegal drugs through the Town, but his concern is how much work it takes to care for a dog. Chief Flood stated that he has spoken with Cpl. Wechtenhiser several times to make sure he wants to do this. He added that Cpl. Wechtenhiser has two dogs now that he is emotionally attached to and is ready to take on a K-9.

Councilman Labor asked how this would affect Cpl. Wechtenhisers current work schedule. Chief Flood stated that Cpl. Wechtenhiser works the late shift now and that would not change. Councilman Labor asked what the process would be if requests for help come when Cpl. Wechntenhiser is not scheduled to work. Chief Flood stated that, "Cpl. Wechtenhiser would call me to get approval if he is not working at that time, then he would get paid from our already allotted overtime money that the Town gets reimbursed for. Councilman Labor asked what training would be needed for Cpl. Wechtenhiser. Chief Flood stated that once approved, they would go to NC for a day to see what each dog has to offer. Once a dog is chosen, the dog would stay there and be trained for 3-4 months and after completely trained, Cpl. Wechtenhiser would go to NC for 3-4 weeks training and when completed, he would receive his National Certification. He would then train with the State Police and receive their certification and would have monthly training with the State Police.

Town Administrator Brought asked if the Town would cover his expenses while in North Carolina. Chief Flood stated that it would be very minimal since boarding is included.

Sgt. Disciullo stated that a 50% deposit is required within 10 days of their Letter of Intent to start the program and the balance would be due the first day Cpl. Wechtenhiser begins his training. He also stated that the estimate for the program without vehicle up-fit is just under \$13K and includes dormitory onsite stay for Cpl Wechtenhiser, the price of the dog, training, health guarantee and a lifetime performance.

Councilman Chandler made a motion to authorize Chief Flood to begin a K-9 Unit as proposed. Councilman Truitt seconded the motion. All were in favor.

c. Review of Current Budget and Proposed Budget 2023-2024 (adoption June 19, 2023, Town Council Meeting)

Town Administrator Brought stated that one column on the budget lists where the Town is right now and a notes column for explanations on some accounts. Councilman Truitt stated that the explanation column was very helpful. Town Administrator Brought stated that it is a guess on how many new homes will be built this year and decided to go lower since it seems like building has slowed down some. She stated that the reason the General Fund is functioning well is because they decided to take a portion of insurance, etc. out of the Water Fund, which we have not done in the past because they were trying to

save money in the Water Fund. She added that they were able to reimburse about \$23k back to the General Fund from the Water Fund.

Councilman Chandler stated the price of electricity has more than doubled. Town Administrator Brought stated "Yes," and she hopes that the LED lights will make a difference when they are all installed. Councilman Chandler stated that sewer bills have increased also. Town Administrator Brought stated, "Yes and we increased the budget for it for this year."

Councilman Chandler stated that based on the projected income and expenses, that they would have a surplus of over \$200K. Town Administrator Brought stated, "Yes," the income is better and with the Retail Centre opening soon, their income and water usage will increase even more.

Town Administrator Brought stated that she spoke with PKS to see if ticket revenue was an approved use for a K-9 Unit, if any extra money was needed and was told that ticket revenue can be used if the Town Council approves it. She also stated that Chief Flood and Sgt. Disciullo are very good at searching for and obtaining grants and receiving donations and she doesn't think there will be a problem.

Councilman Chandler stated that the budget looked great and had no further questions about it. Town Administrator Brought stated that they would have it all updated and complete for the June 19, 2023 meeting so it can be adopted.

d. Discussion on the Cea Dag Water Agreement – New Owner Jake Booth

Town Administrator Brought stated that a 2007 Water Agreement is attached that was between the Town and the previous Cea Dag owners. She also stated that the Town just replaced a new meter that was under warranty at Cea Dag, but the Town doesn't cover commercial meters for anyone else in the Town and feels they should have a new agreement with the current owner that states the owner is responsible for their own meters and the water used.

Councilman Chandler stated that at that time this 2007 Water Agreement was drawn up, the Town needed to convince Cea Dag to discontinue using their water system and join the Town's new water system because Millsboro was unwilling to have a separate system mixed in with their water that they were supplying to Dagsboro. He also stated that the Town agreed to purchase the water meter once, as a way of coming to an agreement with the previous owners. He added he doesn't feel it was the Town's intent to continue to purchase water meters for Cea Dag and feels that the Town needs to enter into a new agreement with the current owners, which goes in line with how they handle all other property owners.

Jake Booth, President of Capstone Homes stated that when the meter went bad, he looked at the Town Code and what he understood it to say was that the Town is responsible for the meter and the owner is responsible for making the repair. Town Administrator Brought stated that is meant for regular household meters not commercial meters. Councilman Chandler asked what is expected of all other

commercial developments. Town Administrator Brought stated they are required to purchase and install the meter.

Jake Booth stated that he would be open to entering into a new agreement with the Town.

e. Discussion and consideration of proposed Resolution regarding HOA Documents Stating Who Is Responsible for Maintaining Stormwater Infrastructure and Routine Maintenance

Councilman Chandler stated that the Resolution included in the packets was designed to help eliminate potential problems with Homeowner's Associations not being fully aware of the fact that they are typically responsible when a developer completes a development to maintain the stormwater retention ponds, stormwater infrastructure and any tax ditches that are on the property. They have witnessed a few local developments where the tax ditches and stormwater drainage ditches haven't been properly maintained which creates flooding. He also stated that the purpose for this Resolution is to make it clear that the Town expects the developer to inform the Homeowner's Association that they are responsible for maintaining these at their expense, not the Town. He added that they would need to decide how to publicize the Resolution or post on the Town's website.

Engineering Consultant Gulbranson stated that first they would formally adopt the Resolution because it is basically a new policy and not something included in the Town Code. Town Administrator Brought asked if they should add it to their Site Plan application. Mr. Gulbranson stated that when an HOA is developed, there are HOA documents that the Town must approve. With this Resolution, the Town will be able to require a statement on the HOA documents that states, the Town of Dagsboro is not responsible for Stormwater Retention Ponds, Stormwater Infrastructure and Tax Ditches are not maintained by the Town of Dagsboro and would be the responsibility of the HOA. The Town can require the statement to be added into the HOA documents prior to approving them.

Councilman Chandler stated that the only issue would be if the HOA refuses to comply. He added that the Town of Bethany has an ordinance on this, and it states that if repair and maintenance is not completed by the HOA, then the Town would step in to have the work completed and bill the HOA for the fees. He feels they should have an ordinance in place and would work on one.

Councilman Labor asked if the policy is for an individual family home whose property runs adjacent to a tax ditch and is the property owner responsible for maintenance of the tax ditch. Councilman Chandler replied, "No, they would call the Pepper's Creek Tax Ditch Association, who would come in and maintain it." Councilman Labor asked, "Why would it be different for a development?" Councilman Chandler stated that when a development is created, developers want to use the maximum amount of land that they can build on and receive court ordered changes to the right-of-way on the tax ditches to have it reduced substantially so there is more land to build on. The Tax Ditch Association is left with no space to clean and maintain it, so it then becomes the developer's responsibility or passed onto the HOA.

Engineering Consultant Gulbranson stated that the tax ditch system was an agricultural ditch system to

be able to drain swampy lands in Southeastern Sussex County for agriculture but now it's being converted into an urban drainage system in the Eastern part of the County with all the development that is going on. Basically, the tax ditch system is our drainage system, and it is causing impacts.

Councilman Chandler made a motion to adopt the Resolution requiring developers, owners, and Homeowner Associations to be responsible for repair and maintenance of Stormwater Retention Ponds, Stormwater Infrastructure and Tax Ditch Drainage Ditches. Councilman Truitt seconded the motion. All were in favor.

VIII. OLD BUSINESS

Town Administrator Brought stated that the revised plans for the new police building/meeting room are included to review and asked Engineering Consultant Kyle Gulbranson to explain the updates.

Engineering Consultant Kyle Gulbranson stated that the changes requested were after the Town obtained the additional lot and was able to expand more. He stated that the size of the police building was increased, an additional fenced-in parking lot behind the police building was added, and an entrance and gate to allow for access to the back of the property for future expansion was added.

He also stated that they would be getting an RFP ready for Design Services so design firms can send quotes on designing the building and doing construction plans. Town Administrator Brought asked, "Approximately when do you think the RFP would be ready?" Engineering Consultant replied, "We should have ready to send out this month."

Councilman Truitt stated that the meeting room size is 450 sq. ft. and asked if that would be large enough for them. Engineering Consultant Gulbranson stated that they based the meeting room size on being able to accommodate 40-50 people. Vice-Mayor Ulrich asked what the dimensions of the meeting room would be. Mr. Gulbranson stated, "20ft. x 25ft, but there is enough space to make it larger." Town Administrator Brought stated that they need space for extra storage also. Mr. Gulbranson stated that they would adjust the plans and make the meeting room larger. Town Administrator Brought stated that the larger room could be used for police training and other events that come up.

IX. PUBLIC COMMENT

No public comment was made.

X. ADJOURNMENT

Councilman Chandler made a motion to adjourn. Vice-Mayor Ulrich seconded the motion. All were in favor.

Meeting adjourned at 7:21 p.m.

Respectfully Submitted,
Wendy Rayne, Finance Clerk